

§ 28.46

(2) An objection to the request for an admission, in whole or in part, on the grounds that the matters contained therein are privileged, irrelevant, or otherwise improper.

(c) Upon a failure or refusal of a party to respond to a request for admissions within the prescribed time period, the request shall be deemed admitted.

SUBPOENAS

§ 28.46 Motion for subpoena.

(a) *Authority to issue subpoenas.* Any member of the Board may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. Any member of the Board may order the taking of depositions or order responses to written interrogatories.

(b) *Motion.* A motion for the issuance of a subpoena requiring the attendance and testimony of witnesses or the production of documents or other evidence under § 28.46(a) shall be submitted to the administrative judge at least 15 days in advance of the date scheduled for the commencement of the hearing. If the subpoena is sought as part of the discovery process, the motion shall be submitted to the administrative judge at least 15 days in advance of the date set for the attendance of the witness at a deposition or the production of documents.

(c) *Forms and showing.* Motions for subpoenas shall be submitted in writing to the administrative judge and shall specify with particularity the books, papers, or testimony desired and shall be supported by a showing of general relevance and reasonable scope and a statement of the facts expected to be proven thereby.

(d) *Rulings.* Where the administrative judge is not a Board member, the motion shall be referred with a recommendation for decision to a Board member. The Board member shall promptly rule on the request. Where the administrative judge is a Board member, he or she shall rule directly on the request.

4 CFR Ch. I (1–1–03 Edition)

§ 28.47 Motion to quash.

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope. This motion shall be filed with the administrative judge within 20 days after service of the subpoena.

§ 28.48 Service.

Service of a subpoena may be made by a United States Marshal or Deputy Marshal or by any person who is over 18 years of age and not a party to the proceeding.

§ 28.49 Return of service.

When service of a subpoena is effected by a person other than a United States Marshal or Deputy Marshal, that person shall certify on the return of service that service was made either:

- (a) In person,
- (b) By registered or certified mail, or
- (c) By delivery to a responsible person (named) at the residence or place of business (as appropriate) of the person to be served.

§ 28.50 Enforcement.

If a person has been served with a Board subpoena but fails or refuses to comply with its terms, the party seeking compliance may file a written motion for enforcement with the administrative judge or make an oral motion for enforcement while on record at a hearing. The party shall present the return of service and, except where the witness was required to appear before the administrative judge, shall submit affidavit evidence of the failure or refusal to obey the subpoena. The Board may then request the appropriate United States district court to enforce the subpoena.

HEARINGS

§ 28.55 Scheduling the hearing.

The notice of initial hearing shall fix the date, time and place of hearing. GAO, upon request of the administrative judge, shall provide appropriate hearing space. Motions for postponement by either party shall be made in writing, shall set forth the reasons for